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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

IN RE COLLEGE ATHLETE NIL
LITIGATION

Case No. 4:20-cv-03919-CW

**STIPULATION AND [PROPOSED] ORDER
MODIFYING SEALING PROCEDURES
RELATING TO CLASS CERTIFICATION
BRIEFING AND RELATED DOCUMENTS**

Hon. Claudia Wilken

1 Pursuant to Northern District of California Local Rule 7-12, Plaintiffs in the above-captioned
 2 action and Defendants National Collegiate Athletic Association, Atlantic Coast Conference, The Big
 3 Ten Conference, Inc., The Big 12 Conference, Inc., Pac-12 Conference, and Southeastern Conference
 4 (collectively, “Defendants,” and together with Plaintiffs, the “Parties”), by and through their respective
 5 undersigned counsel, submit the following Stipulation seeking an order adjusting the sealing
 6 procedures for the Parties’ class certification briefing papers and related documents as set forth in
 7 Local Rule 79-5:

8 WHEREAS, the Court: (i) entered the Parties’ stipulation and protective order that largely
 9 incorporated the six (6) confidentiality designations in *In re NCAA Athletic Grant-in-Aid Cap Antitrust*
 10 *Litigation* (Case Nos. 4:14-md-2541-CW, 4:14-cv-2758-CW) (“*Alston*”) (“Confidential Information”;
 11 “Highly Confidential – Counsel Only”; “Highly Confidential NCAA Member Financial Data”;
 12 “Conference Strictly Confidential – Outside Litigation Counsel Only”; “Network Strictly Confidential
 13 – Outside Litigation Counsel Only”; “Highly Confidential Billing Records – Outside Counsel Only”)
 14 (*see* ECF Nos. 136–37); (ii) entered the Parties’ supplemental stipulation that created two (2) new
 15 confidentiality designations (“House CSC – Outside Litigation Counsel Only”; “House NSC – Outside
 16 Litigation Counsel Only”) (*see* ECF Nos. 147–48); and (iii) entered the Parties’ second supplemental
 17 stipulation that addressed protections for information produced by NCAA member schools, colleges,
 18 universities or institutions (*see* ECF Nos. 180–81) (collectively, the “Protective Orders”);

19 WHEREAS, pursuant to the Court’s Order Granting Plaintiffs’ Motion to Modify Case
 20 Schedule dated April 8, 2022, the Plaintiffs will file their class certification motion and supporting
 21 expert reports on October 21, 2022; the Defendants will file their class certification opposition and
 22 supporting expert reports on February 10, 2023; and Plaintiffs will file their class certification reply
 23 and expert rebuttal report on April 14, 2023. *See* ECF No. 189;

24 WHEREAS, the Parties have sought and obtained significant discovery, including substantial
 25 non-party discovery that is subject to protection under the Protective Orders, to facilitate the class
 26 certification briefing and anticipate that several administrative motions to seal would be filed if the
 27 Parties strictly complied with the procedures set forth in Local Rule 79-5;

1 WHEREAS, the Parties anticipate that numerous Party and non-party declarations in support
 2 of any forthcoming administrative motions to seal will need to be filed, and that compliance with the
 3 procedures and timing set forth in Local Rule 79-5 will impose a substantial burden on non-parties to
 4 file multiple declarations to protect the same or similar information, and on the Court to review and
 5 evaluate such duplicative filings;

6 WHEREAS, the Parties previously stipulated that where information designated “Network
 7 Strictly Confidential – Outside Counsel Only” in *Alston* or “House NSC – Outside Litigation Counsel
 8 Only Information” is filed, the filing party shall provide written notice to each applicable “Network
 9 Intervenor” or “Network” (collectively, “Network Entity”) at least five (5) business days in advance
 10 of filing an administrative motion to seal the designated material. *See* ECF Nos. 136-3, 137, 148; and

11 WHEREAS, the Parties agree that a single combined administrative motion to seal covering
 12 all sealing requests (“Omnibus Sealing Motion”) would be the most efficient way for the Court to
 13 handle all sealing issues arising from the Parties’ class certification briefing papers and related
 14 documents, and that, upon order of this Court, such Omnibus Sealing Motion shall supersede any
 15 interim sealing motions that would ordinarily accompany the Parties’ opening brief, opposition brief,
 16 reply brief, and any associated documents.

17 THEREFORE, the Parties hereby agree and stipulate that, upon order of this Court:

- 18 • The Parties shall file redacted versions of their class certification briefs and related
 19 documents on or before October 21, 2022, February 10, 2023, and April 14, 2023, without
 20 accompanying interim motions to seal;
- 21 • Within three (3) days of each filing, the filing Party shall identify for each non-filing Party
 22 the portions of the filing Party’s brief that contain information designated as “Conference
 23 Strictly Confidential – Outside Litigation Counsel Only”; “Network Strictly Confidential
 24 – Outside Litigation Counsel Only”; “Highly Confidential Billing Records – Outside
 25 Counsel Only”; “House CSC – Outside Litigation Counsel Only”; or “House NSC –
 26 Outside Litigation Counsel Only”;

- 1 • No later than five (5) days from the last filing (currently, April 19, 2023), each Party shall
2 notify any Network Entity of the inclusion of any information designated “Network Strictly
3 Confidential – Outside Counsel Only” or “House NSC – Outside Litigation Counsel Only
4 Information” in any of that Party’s class certification filings;
- 5 • No later than fourteen (14) days from the last filing (currently, April 28, 2023), the Parties
6 shall file an Omnibus Sealing Motion, and, consistent with Local Rule 79-5(f)(2), shall
7 serve the Omnibus Sealing Motion on all Non-Party Designating Parties. The Parties shall
8 also notify any applicable Non-Party Designating Parties of the procedures set forth in
9 Local Rule 79-5(f)(3) and as modified herein; and
- 10 • No later than fourteen (14) days from the filing of the Omnibus Sealing Motion (currently,
11 May 12, 2023), any Designating Party must file a statement or declaration in support of
12 sealing, as set forth in Local Rule 79-5(f)(3).

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1 Dated: October 11, 2022

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19 Respectfully submitted,

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1 **ATTESTATION PURSUANT TO CIVIL LOCAL RULE 5-1(i)(3)**

2 Pursuant to Civil Local Rule 5-1(i)(3), the filer of this document attests that concurrence in the
3 filing of this document has been obtained from the signatories above.

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/s/ Jeffrey L. Kessler
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[PROPOSED] ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: _____

HON. CLAUDIA WILKEN
UNITED STATES DISTRICT COURT JUDGE